IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 15004 of 2005

Between:

1. B. Thimmappa S/o Jambaiah
   R/o 43-K, Udegolam Village, Kanekal Mandla,

Ananthapur District
2. Boya Vannuru Swamy S/o Mareppa
   R/o 43-K, Udegolam Village, Kanekal Mandla,

Ananthapur District
3 K. Hosikerappa, S/o Chikkanna
   R/o 43-K, Udegolam Village, Kanekal Mandla,

Ananthapur District
4. A. Noor Mohammed @ Noor Basha, S/o Khader,
   R/o 43-K, Udegolam Village, Kanekal Mandla,

Ananthapur District

..... PETITIONERS

AND

1. The Assistant Commissioner, Endowment Department,

Government of A.P., Ananthapur, Ananthapur District
2. The Executive Officer, Sri Kalleshwara Sri Anjaneyaswamy

Temple, Kanekal, Ananthapur district

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandmaus declaring the action of the respondents in proposing to conduct auction on 15-7-2005 in respect of Ac. 16-00 of land in Survey No. 147 of Malyam Village, Kanekal Mandal, Ananthapur District, which are belongs to Sri Kalleshwara Sri

Anjaneyaswamy temple which are in cultivation of the petitioners as illegal, arbitrary and in violation of G.O.Ms.No.379, dated 11-03-2003 and consequently direct the respondents to declare the petitioners as landless poor persons and sell the lands to the petitioners.

Counsel for the Petitioners: MR.N.NARASIMHA RAO

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for RespondentNo.2: Smt Indrani, SC for Temples

The Court at the admission stage made the following:

ORDER:

The grievance of the petitioners, in this Writ Petition, is that they are landless poor persons and despite an application being filed by them, before the Assistant Commissioner, Endowment Department-first respondent, to determine their case as landless poor persons, in spite of the fact that their application is still pending, the second respondent has issued an auction notice for auctioning the leasehold rights of the lands presently under the cultivation of the petitioners. It is further stated that the auction is proposed to be held on 15.07.2005.

As can be seen from Section 82(2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, (for short the Act), it is only where a landless poor person is in cultivation of the land for a period of not less than six years continuously, that he is entitled for the benefits prescribed in the said section. Admittedly, the petitioners herein were granted lease from the year 2000, but not continuously for six years, as prescribed under Section 82(2) of the Act.

It is contended by the petitioners that they are not seeking sale of the lands in their favour under Section 82(2) of the Act and that they are only seeking extension of lease at enhanced rent. No such right is traceable to any provision under the Act or under the Rules made there under. Even if a person is determined under Rule 3 of the rules made under the Act, as a landless poor person, it is only when he is in continuous cultivation for six years that he is entitled for certain benefits under Section 82 of the Act. Admittedly, the petitioners herein were granted lease only from the year 2000 and are therefore, not entitled for the statutory protection under Section 82 of the Act. Pendency of the application under Rule 3 before the first respondent, is therefore, of no avail to the petitioners herein.

Be that as it may, learned counsel for petitioners Mr N.Narasimha Rao, submits that petitioners are poor farmers, that these are standing crops existing on the land under their cultivation and that they will be put to serious loss and hardship, if the lands were auctioned and they are consequently dispossessed from the lands.

The learned counsel for the petitioner submits that the petitioners shall make a representation to the second respondent within one week from today, requesting him to permit them to remain in possession of the land till the standing crops are harvested. While the auction to be held on 15.07.2005 may go on and finalized, the petitioners shall be permitted to remain in possession of the lands under cultivation till their representation is considered by the second respondent and orders are passed thereon.

The writ petition is accordingly disposed of with the aforesaid observations. No costs.

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kvrm 13-07-2005

Note: CC in two days

To

1. The Assistant Commissioner, Endowment Department,

Government of A.P., Ananthapur, Ananthapur District
2. The Executive Officer, Sri Kalleshwara Sri Anjaneyaswamy

Temple, Kanekal, Ananthapur district

3. 2 CC to G.P. for Endowments, High Court Buildings,

Hyderabad.(OUT)

4. 2 CD copies.